

**LAFCO**

**Meeting Date:** December 5, 2007

**TO:** LAFCO

**FROM:** Neelima Palacherla, Executive Officer  
Dunia Noel, LAFCO Analyst

**SUBJECT:** **Consideration of Potential Modifications to the  
Proposed Incorporation Boundaries of the Town of San  
Martin**

Agenda Item # 8.2

### **STAFF RECOMMENDATION**

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Accept report and provide direction as necessary.

### **BACKGROUND**

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#### **Project is the Proposed Incorporation of the Town of San Martin**

LAFCO is processing an incorporation proposal for the Town of San Martin which is located in southern Santa Clara County between the cities of Morgan Hill and Gilroy. The incorporation, if approved by LAFCO and supported by a majority vote of registered voters in the area, would transfer general governance and jurisdiction over service provision and land use decisions from the County of Santa Clara to the new Town of San Martin. The project also involves the establishment of planning boundaries such as an urban service area and a sphere of influence for the new Town of San Martin. No new development or new services or change in the level of services is associated with the proposed project.

As indicated by the project proponents (San Martin Neighborhood Alliance), one of the intents of the incorporation is to maintain the current rural residential character and small-scale agricultural activities of the community.

#### **Proposed Incorporation Boundary for the New Town of San Martin**

The proposed incorporation boundary of the Town of San Martin, as submitted by the proponents, roughly encompasses a 10,473-acre (16.36 square miles) area bounded by Maple Avenue on the north, New Avenue on the east, Masten Avenue on the south, and Watsonville Road on the west. The northern portion of the proposed incorporation boundaries is coterminous with the City of Morgan Hill's Sphere of Influence Boundary (SOI) and the southern portion of the proposed incorporation boundaries is coterminous with the City of Gilroy's Sphere of Influence Boundary (SOI). The western and eastern portion of the

boundary includes lands up to the foothills. (see **Attachment A** for a map of the proposed incorporation boundaries)

In comparison, the neighboring cities of Morgan Hill (34,000 population) and Gilroy (43,000 population) encompass approximately an area of 11.67 square miles and 16.53 square miles respectively.

### **Other LAFCO Boundaries for the New Town of San Martin**

#### **Urban Service Area Boundary (USA)**

The USA is an area in which a city (with LAFCO approval) designates where and when urban development should occur based on the concept that cities should plan for the provision of urban services and facilities within a 5-year time span and annex the area within a 5-year time span.

The proponents have requested that the proposed new Town not have an USA boundary, because the intent of the incorporation is to retain the rural character and to not provide urban services. There is no requirement that an incorporating city must establish an USA boundary at the time of incorporation. However, each city in Santa Clara County has an urban service area boundary. Under LAFCO Policies, a city without an USA boundary would not be able to annex additional lands.

Therefore, LAFCO staff believes that an USA should be established that is coterminous with the city limits. Such a boundary would not create any expectations with regard to the provision of urban services. The provision of urban services within such USA/city limits will be determined by the city.

#### **Sphere of Influence Boundary (SOI)**

In Santa Clara County, a SOI boundary for a city serves multiple purposes including:

- A long-range planning tool to help LAFCO evaluate USA boundary changes and annexation requests,
- The area designated as a city's planning area or area covered by a city's General Plan,
- Areas that will not necessarily be annexed by a city or will not necessarily receive services from the city, but are areas in which the County and a city may have shared interest in preserving non-urban levels of land use,
- Areas where a city and a county have significant interaction, and
- Areas that contain social or economic communities of interest to a city.

State law defines the SOI as the probable physical boundaries and service areas of a local agency. In Santa Clara County, the USA functions in the same manner as SOIs. When evaluating proposed urban expansions, LAFCO utilizes the city's existing USA as a more important factor than the city's existing SOI, because the USA is a shorter-term growth boundary that is directly linked to the city's ability to provide services.

LAFCO may either approve a SOI for a new city at the time of LAFCO's hearing on the proposed incorporation or postpone consideration of the SOI for up to one year (Government Code Section 56426.5) after voter approval.

### **LAFCO Must Also Consider Alternate Incorporation Boundary Alignments**

LAFCO is required to consider alternative boundaries and is empowered to modify boundaries in its review of proposals in accordance with Government Code 56668 and 56375(a) and (l) and LAFCO Policies. As part of LAFCO's review of the proposed incorporation, LAFCO must consider whether the proposed incorporation boundaries are consistent with State law, LAFCO Policies, and Santa Clara County General Plan Policies. Modifying boundaries is one means by which LAFCO can eliminate conflicts with LAFCO Policies and the CKH Act. The LAFCO Executive Officer must evaluate boundary issues and present a recommended boundary for the Commission's consideration.

Although the new Town will adopt the Santa Clara County General Plan and Zoning Ordinance after incorporation, there is no guarantee that the Town will continue to use this General Plan and Zoning Ordinance long term. LAFCO has no authority over lands located in a city. Therefore, LAFCO would be concerned about how the Town's decisions could impact agricultural lands that are included in the city's boundaries as well as adjacent agricultural lands. The Santa Clara County General Plan contains policies that support urban buffers and or greenbelt concepts between the South County cities and San Martin in order to maintain community identity, avoid encroachment into agricultural lands and to minimize land use conflicts. Both the Cities of Morgan Hill and Gilroy contain unincorporated lands within their respective SOI boundaries that serve as an urban buffer/greenbelt .

The proposed incorporation boundaries include:

- Approximately 2,132 acres of Prime Farmland, 257 acres of Unique Farmland, and 577 acres of Farmland of Statewide Importance
- Approximately 1,004 acres of land designated Agricultural Medium Scale

- 187 properties that are under the Williamson Act totaling 2,200 acres. However, 126 of 187 are under non-renewal and set to expire in years 2016 or 2017. The remaining 61 properties are primarily located within the southwestern and northern parts of the proposed boundaries for San Martin.

Lastly, the majority of the adjacent lands just north and south of the proposed incorporation boundary are designated by the California Department of Conservation as “prime farmland” and “farmland of statewide importance.” These lands also meet LAFCO’s definition of “prime farmland.”

### **POTENTIAL MODIFICATIONS TO PROPOSED INCORPORATION BOUNDARY**

LAFCO should consider modifying the proposed incorporation boundaries in order to address these issues and to specifically:

- Encourage compact orderly growth and development
- Avoid creating islands and areas difficult to serve
- Guide development away from open space and agricultural lands
- Avoid negatively impacting adjacent agricultural lands
- Maintain urban buffers, greenbelts, and community separators consisting of land outside of a city

LAFCO staff has developed the following potential modifications to the proposed incorporation boundaries of the new Town of San Martin (see **Attachment B** for Map of these Areas 1 through 7):

#### **AREA 1: Exclude the County of Santa Clara’s Parklands and lands designated “Ranchlands” in the Santa Clara County General Plan.**

The proposed incorporation boundaries include 253 acres of parklands (i.e. the County of Santa Clara’s Coyote Lake Harvey Bear Ranch County Park) and 356 acres of lands designated “Ranchlands” in the County General Plan. LAFCO Policies discourage the inclusion of open space lands in the incorporation boundary. Therefore, including County parklands and lands designated “Ranchlands” in the city limits is not appropriate.

#### **AREA 2: Include area along California Avenue.**

Including this area would ensure that the incorporation boundaries do not create an island. An island is an unincorporated area that is substantially surrounded by a city or cities. LAFCO is prohibited from creating islands because islands are inefficient to serve and create illogical boundaries. This area is currently in

Morgan Hill's SOI and outside of Morgan Hill's USA. However, this area is topographically and geographically better suited to be within San Martin. This modification of the proposed boundary will require LAFCO to amend Morgan Hill's SOI and to remove this area from Morgan Hill's SOI. The City of Morgan Hill has indicated that they, on a preliminary basis, support this alternative.

### **AREA 3: Exclude the Crowner Subdivision.**

The Crowner Subdivision and surrounding area along Monterey Road is substantially developed to urban densities. The 25 homes in the area rely on individual septic systems and share a water system that relies on a few wells that are located within the subdivision. At least one well has been taken off-line in the past to address bacterial contamination issues. This area may require urban services in the future in order to address a public health and safety issue. As the intent of the proposed incorporation is not to provide urban services or to change the level of existing services that the area receives, LAFCO staff believes it is not appropriate to include this area in the incorporation boundaries.

Staff will discuss this with the City of Morgan Hill and obtain their support for placing this area within Morgan Hill's SOI since the City is the nearest urban service provider. Including the area within Morgan Hill's SOI will not commit Morgan Hill to provide the area with urban services. The City of Morgan Hill can determine if and when to request inclusion of the area within its USA boundary and eventually annex the area. Once annexed, the City can provide the area with urban services.

### **AREA 4: Exclude area north of Middle Avenue designated "Agriculture Medium Scale" under the Santa Clara County General Plan**

This area and the lands directly north of it make up a large agricultural area. State law and LAFCO Policies discourage the inclusion of agricultural lands in a city and require LAFCO to consider such factors as the proposal's effects on adjacent lands and effects on the economic integrity of agricultural lands. Similarly, various policies of the Santa Clara County General Plan call for the use of urban buffers, greenbelts, and community separators between cities in South County in order to maintain community identity, avoid encroachment into agricultural lands, and to minimize land use conflicts. Therefore, including the area in the city limits is not appropriate.

However, LAFCO could consider including the area within the Town's SOI boundary, but outside of the city limits. This would allow the Town to include this area in its General Plan, facilitate joint planning with the County for this

area, and allow the Town to participate in the County's development review process for this area through the informal County/City referral process.

**AREA 5: Exclude areas in southwest**

This area includes some lands that are located west of Turlock Avenue that are designated "Agriculture Medium Scale" in the County General Plan and are adjacent to lands with the same designation as well as lands designated "Open Space Reserve." In addition, the area also consists of larger size parcels relative to the other areas within the proposed incorporation boundaries. This area also includes lands identified as "prime agricultural lands" by the California Department of Conservation. This area also has a high concentration of lands that hold a Williamson Act contract.

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**AREA 6 (For Further Study): Lands under an Open Space Conservation Easement in the Southwest section of the CordeValle Development**

This area is being identified at this time for further study by LAFCO and includes unincorporated lands that are under an open space conservation easement that is held by the County of Santa Clara. LAFCO Policies discourage the inclusion of open space lands in the incorporation boundary. Therefore, including these lands in the city limits may not be appropriate. LAFCO staff is studying the ramifications of including these lands in the proposed incorporation boundaries. The proponents of the incorporation have also indicated that it may be appropriate to exclude this area from the proposed incorporation boundaries due to concerns about the adequacy of wildland fire protection services to this Area. LAFCO staff is conducting further research on this issue.

**AREA 7 (For Further Study): Lands Designated "Agricultural Medium Scale" in the Santa Clara County General Plan, specifically located on the west side of the Proposed Incorporation Boundary**

This area is being identified at this time for further study by LAFCO. This area and the lands directly west of it make up a medium size agricultural area and are designated "Agricultural Medium Scale" in the Santa Clara County General Plan. State law and LAFCO Policies discourage the inclusion of agricultural lands in a city and require LAFCO to consider such factors as the proposal's effects on adjacent lands and effects on the economic integrity of agricultural lands. Therefore, including these lands in the city limits may not be appropriate.

However, LAFCO could consider including the area within the Town's SOI boundary, but outside of the city limits. This would allow the Town to include this area in its General Plan, facilitate joint planning with the County for this area, and allow the Town to participate in the County's development review process for this area through the informal County/City referral process.

**NEXT STEPS**

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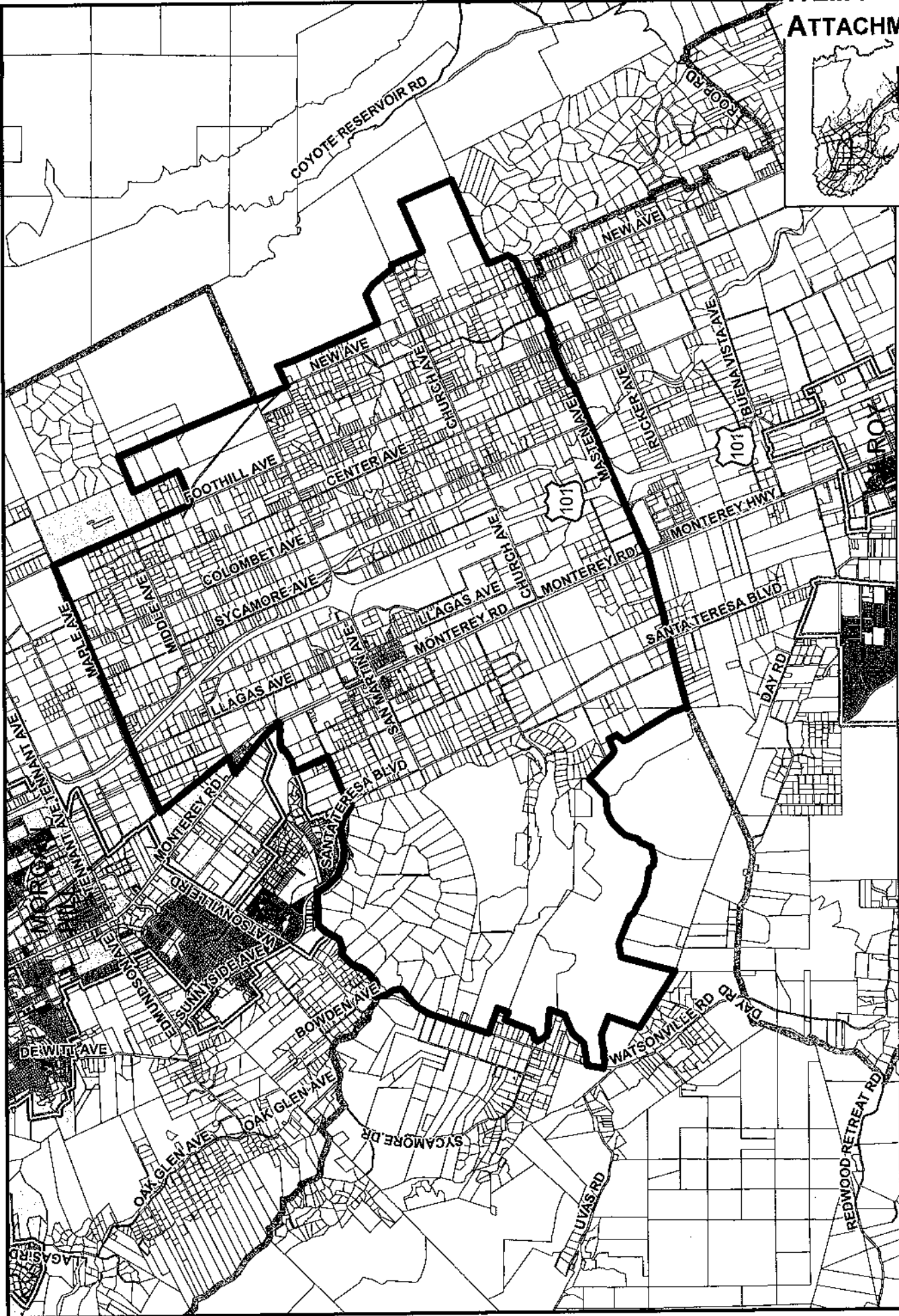
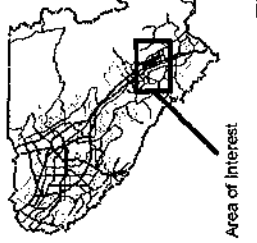
These are LAFCO staff's preliminary recommendations regarding potential modifications to the proposed incorporation boundaries of the Town of San Martin. LAFCO staff will work with the Comprehensive Fiscal Analysis (CFA) consultant to determine the financial and service impacts of these potential modifications. LAFCO staff will also consider whether any of the potential boundary modifications affect the proposed CEQA analysis.

**ATTACHMENTS**

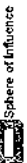
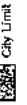
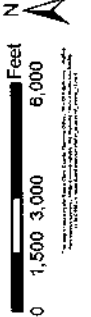
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- Attachment A:** Map of Proposed San Martin Incorporation Boundary
- Attachment B:** Map of Potential Modification to the Proposed San Martin Incorporation Boundary

# ITEM No. 8.2 ATTACHMENT A

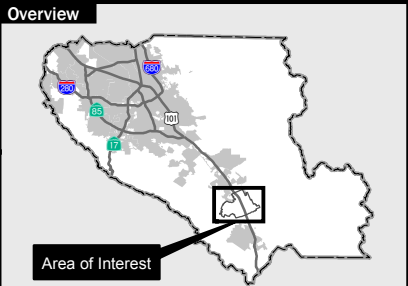
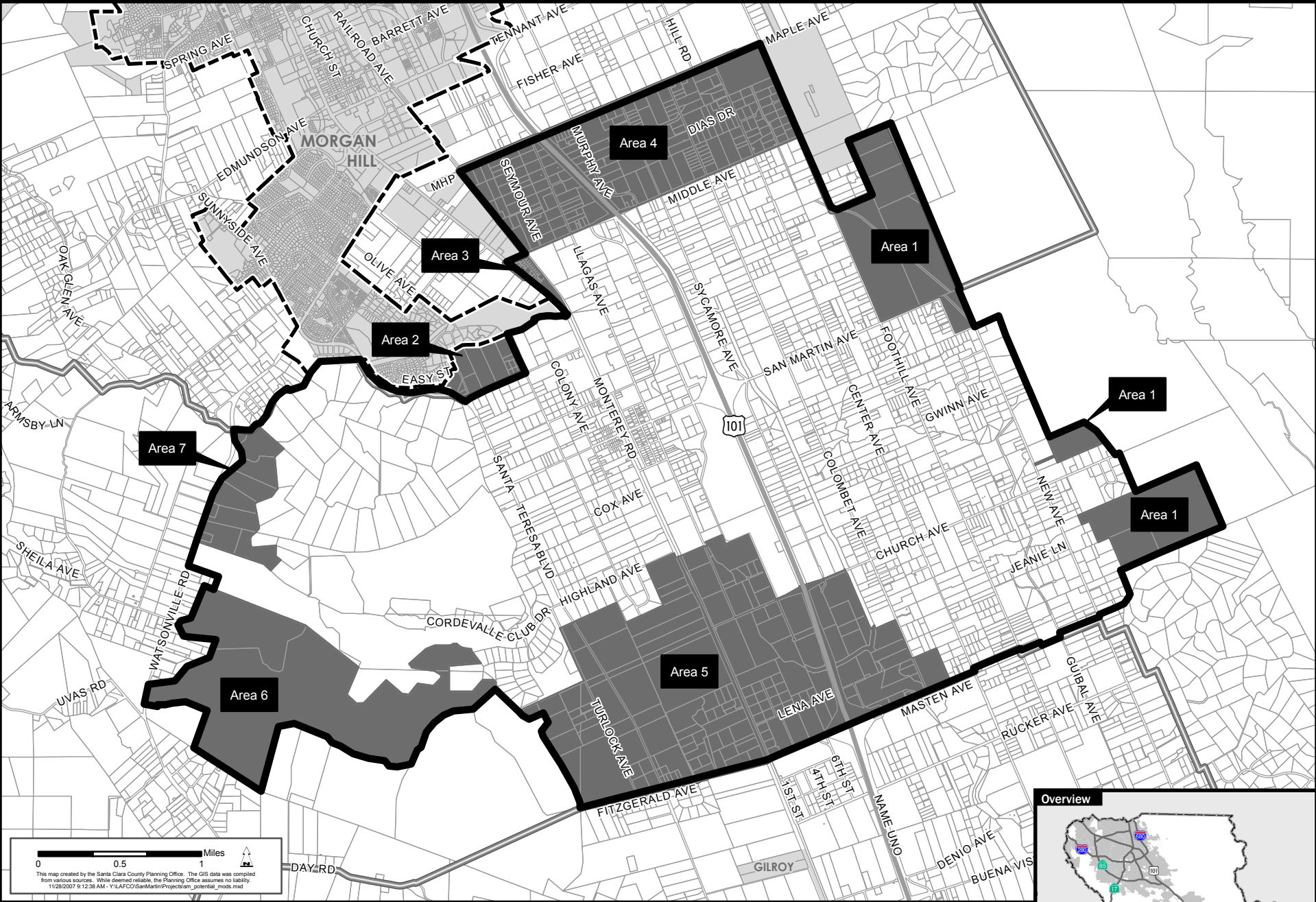


**LAFCO**  
Local Agency Formation Commission of Santa Clara County



Proposed San Martin Incorporation Boundary  
San Martin Proposed Boundary

# Potential Modifications to the Proposed San Martin Incorporation Boundary





## San Martin Neighborhood Alliance

*"Together We Make A Difference"*

Friday, October 5, 2007

Neelima Palacherla, Executive Officer  
Local Agency Formation Commission  
70 West Hedding Avenue  
11th Floor, East Wing  
San Jose, California 95110

RE: San Martin Incorporation Boundaries

Dear Ms. Palacherla:

SMNA is concerned by the potential exclusion of portions of the proposed incorporation boundaries presented in our Application for Incorporation to create a buffer in the form of unincorporated Spheres of Influence between Morgan Hill and San Martin on the north and Gilroy and San Martin on the south. It is the primary stated purpose of the incorporation to allow local control of land use decisions in order to preserve the rural residential quality of San Martin. SMNA does not believe that excluding these areas furthers that goal.

As you may recall, the proposed boundaries were conceived jointly between LAFCo and the proponent prior to the circulation of the petition. These boundaries were created with the express understanding that boundaries that are coterminous with the sphere of influence would further the goal of keeping San Martin rural residential. We believe that creation of buffers between San Martin and the neighboring cities would actually be counter productive to the stated goal and may actually be growth inducing. San Martin is the buffer between Morgan Hill and Gilroy. Creation of the buffer could be growth inducing because it will create the impression that a buffer is needed between San Martin and the neighboring cities. Because San Martin is the buffer between Morgan Hill and Gilroy, creation of an additional boundary would imply that San Martin intends to become urban. This is a false impression. Thus an alternative with buffers would have a greater potential impact than the proposed boundary.<sup>1</sup> There is simply no purpose served in leaving any land out to create a buffer.

In addition to the impression that creation of a buffer will leave, creation of the buffer will leave a section of the town with no voice in the community. First, they will be left as fragments of the San Martin

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<sup>1</sup> Proponent does not concede that the incorporation constitutes a "project" under CEQA nor does incorporation alone have any impact or growth inducing potential. Proponent believes an incorporation constitutes only a "change of organization or personnel," the only environmental impact of which is the replacement of one group of managers by others who might hold different views on the future use of the land in question. That is not a project under the reasoning explained in *Simi Valley Recreation & Park Dist. v. Local Agency Formation Com.* (1975) 51 Cal.App.3d 648, 663. Accord, *Prentiss v. Board of Education* (1980) 111 Cal.App.3d 847, 852, questioned on another point in *Fullerton Joint Union High School Dist. v. State Bd. of Education* (1982) 32 Cal.3d 779, 796, fn. 16.

Planning Area which will likely be dissolved upon incorporation of the town. There will be no advisory committee to advocate their needs to the county. Further, there will be no possibility of becoming annexed into San Martin so they could never vote in San Martin elections. Santa Clara County has a unique provision that requires a city to utilize most of the land in its "urban service area" for urban development before additional land can be considered for annexation into the city. However, San Martin will not create an urban service area in connection with the incorporation. In fact, creation of an urban service area, we believe, would be inconsistent with a rural residential city and will likely never be created.<sup>2</sup> This would effectively leave these people in the north and south areas disenfranchised with no real opportunity to participate in land use decisions affecting their property.

Another more visual consideration is that the areas in question are virtually identical to the rest of San Martin. In the area south of Church Avenue, the land use and zoning is identical to the rest of San Martin. In the area north of Middle Avenue, although zoned Agricultural, the land use is also identical to the rest of San Martin. The agricultural uses in San Martin are widely scattered. This makes it difficult to create areas to preserve any agricultural use without creating islands or irregular or illogical boundaries.

Finally, our informal polling of the area suggests that few, if any, of the residents in the north and south areas want to be excluded from the town. We have had numerous requests to keep these areas in the incorporation boundaries.

For these reasons, among others, we believe excluding the north and south parts of the town from the incorporation boundaries does not represent prudent planning.

Sincerely,

SAN MARTIN NEIGHBORHOOD ALLIANCE



Richard van't Rood

RVR/djk

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<sup>2</sup> Creation of an urban service area would in any event require an EIR.